

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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To:

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NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Rule 71.1)

Date of mailing
(day/month/year)

24-09-2004

Applicant's or agent's file reference

21003850

IMPORTANT NOTIFICATION

International application No.

PCT/IB2003/002827

International filing date (day/month/year)

08-07-2003

Priority date (day/month/year)

11-07-2002

Applicant

Pronova Biocare AS
et al

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the *PCT Applicant's Guide*.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed invention is patentable or not" (see Also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

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REC'D 29 SEP 2004

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PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PC-21003850	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/IB2003/002827	International filing date (day/month/year) 08.07.2003	Priority date (day/month/year) 11.07.2002
International Patent Classification (IPC) or national classification and IPC C11B 3/12, A23D 9/00, A61K 9/02		
Applicant Pronoca Biocare AS et al		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. ☐ (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand 11.02.2004	Date of completion of this report 21.09.2004
Name and mailing address of the IPEA/SE Patent- och registreringsverket Box 5055 S-102 42 STOCKHOLM Facsimile No. +46 8 667 72 88	Authorized officer Yvonne Siösteen/BS Telephone No. +46 8 782 25 00

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/IB2003/002827

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1(b))
☐ publication of the international application (under Rule 12.4)
☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☒ the international application as originally filed/furnished

☐ the description:

pages _____ as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

☐ the claims:

pages _____ as originally filed/furnished

pages* _____ as amended (together with any statement) under Article 19

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

☐ the drawings:

pages _____ as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to the sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	<u>1-18, 22</u>	YES
	Claims	<u>19-21, 23-31</u>	NO
Inventive step (IS)	Claims	<u>1-18, 22</u>	YES
	Claims	<u>19-21, 23-31</u>	NO
Industrial applicability (IA)	Claims	<u>1-31</u>	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

The claimed invention relates to a process for decreasing the amount of environmental pollutants in a mixture comprising a fat or an oil using a volative working fluid comprising a fatty acid ester or a fatty acid amide or a hydrocarbon.

Relevant documents cited in the search report:

D1) Fiskeridirektoratets skrifter serie teknologiske undersokelser, volume 5, no.15, 1978, K. Julshamn et al.

D2) WO 9524459

D1 and D2 are considered to represent the closest prior art.

D1 and D2 disclose methods for removing DDT and its metabolites from oil by molecular distillation.

The claimed process differs from the known processes in that a volative working fluid comprising at least one of a fatty acid ester, a fatty acid amide, a free fatty acid and a hydrocarbon is being used.

The problem which is solved by the claimed method is that the pollutants are more effectively stripped off and therefore almost all pollutants are taken away. Thus, the use of the volative working fluid gives a better utilization of the capacity of the process equipment and a more rapid stripping process. Another advantage with the claimed process is that it can be performed at a lower temperature.

.../...

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of:

For a person skilled in the art it was not obvious in view of D1 and D2 to use a volative working fluid in a process for decreasing the amounts of environmental pollutants in a mixture of fat or oil.

Therefore, claims 1-5, 7-18 and 22 are considered to fulfil the requirement of inventive step.

Claims 19-21 and 23 relate to the known products: a fatty acid ester, a fatty acid amide, a free fatty acid and a hydrocarbon. The fact that some of them have a new use as a volative environmental pollutants decreasing working fluid does not render novelty to the products themselves.

Claims 19-21 and 23 lack novelty.

The product produced by the claimed product (claims 24-31) does not differ from known oil products having a decreased content of environmental pollutants produced by other methods (see e.g. D1 and D2).

Claims 24-31 lack novelty.